



Storm Recovery and Disaster Planning Grants for Historic Properties

Manual and Application Instructions

Round 1
October 2014



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SECTION ONE: BACKGROUND & OVERVIEW

The New Hampshire Division of Historical Resources is pleased to offer a new source of grant funding to repair historical and archaeological properties that were damaged by Superstorm Sandy in October 2012 and to help property owners and communities plan for future disasters. Grant funding will be distributed in two rounds, with the **first round** giving priority to proposals that repair damage from Superstorm Sandy. Priorities in the **second grant round** will expand to include both proposals that repair damage from Superstorm Sandy and other initiatives that will better prepare historical properties for future disasters, such as community and site specific disaster planning, updated historical surveys, National Register nominations, and educational programming and training. The first ground round will open in **October 2014 with applications due on December 10, 2014**. Up to \$325,000 will be awarded in the first grant round. The remaining grant funds will be committed in a second grant round set for spring 2015.

After Superstorm Sandy, the Federal Emergency Management Agency (FEMA) issued major disaster declarations in 12 states, including New Hampshire, and the District of Columbia. Within these 12 states, FEMA further designated individual counties as eligible for public assistance. The Disaster Relief Appropriations Act of 2013 then appropriated approximately \$50 million from the Historic Preservation Fund (HPF) of the National Park Service (NPS) for historic preservation projects providing relief for damages in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Pennsylvania, Virginia, West Virginia and the District of Columbia.

Six of New Hampshire's ten counties – **Belknap, Carroll, Coos, Grafton, Rockingham and Sullivan** – were determined eligible for Public Assistance through FEMA. **Only historical properties in these six counties are eligible** to apply for this grant program.

Eligibility and Program Summary

- The Division of Historical Resources will distribute approximately \$450,000 in grant funds over two grant rounds. No matching funds share is required; however, it is encouraged.
- Grants will be awarded on a competitive basis. Criteria will include the property's historical significance, the applicant's ability to complete the project promptly and successfully, the degree and nature of storm damage, the ability of the project to correct this damage, and the completeness and accuracy of the grant application.
- Properties must be listed to or eligible for listing to the National Register of Historic Places.
- Costs to list an eligible property to the National Register may be funded with grant dollars and must be included within the scope of work, if the property is not yet listed.
- Properties may be privately-owned or owned by a non-profit, a local or county government or the state.
- Properties owned by the federal government are not eligible for the program.
- Projects that have already been completed may be eligible for grant funds, if it can be demonstrated that the projects met all program requirements.
- Repair work must be carried out according to the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.
- Grant projects must comply with all other requirements for work assisted by the Historic Preservation Fund, including procurement and reporting requirements and the execution of a term preservation easement on the property.

ELIGIBILITY

Eligible Properties:

Properties located in the designated counties (Belknap, Carroll, Coos, Grafton, Rockingham, Sullivan) that sustained damage after October 22, 2012 as a result of Superstorm Sandy may apply for grant assistance from the NH Division of Historical Resources (NHDHR) for storm related damage IF:

- they are listed on the National Register of Historic Places,
- OR determined to be eligible for listing on the National Register of Historic Places by the NHDHR.
- This includes individually listed or eligible properties that are contributing to the significance of a National Register historic district.

If grant assistance is provided to a property that is determined eligible for listing on the National Register of Historic Places a National Register nomination must be completed as a condition of the funding. Costs to hire an architectural historian to write the National Register nomination are an eligible grant-related expense and should be included in the grant application. NHDHR's consultant list is available here: <http://www.nh.gov/nhdhr/consultants.html>

All New Hampshire properties and historic districts listed in the National Register of Historic Places can be found here: http://www.nh.gov/nhdhr/programs/documents/nr_listings.pdf.

If a property is not listed to the National Register of Historic Places and has not yet been determined eligible for listing, applicants should contact the Survey Coordinator at the NHDHR for assistance (Mary Kate Ryan at marykate.ryan@dcn.nh.us or 603-271-6435). An Individual Inventory Form must be completed and submitted for review by the Determination of Eligibility Committee. Use of an architectural historian to assist with the inventory form is encouraged. The deadlines for Individual Inventory Form submissions within the open grant period are:

- November 5, 2014 with decisions notifications by November 22, 2014
- November 19, 2014 with decision notifications by November 25, 2014

Forms, manual and guidance for this process are located at: <http://www.nh.gov/nhdhr/programs/survey.htm>.

A cover letter explaining that the Individual Inventory Form is being completed as part of the qualifications for storm recovery and disaster planning grant assistance should be included with the form's submission. The cost for completing the Individual Inventory Form is an eligible grant-related expense and should be included in the grant application. The Individual Inventory Form is completed in advance of the National Register nomination that must be completed as part of the overall grant project. As stated above, the costs to hire an architectural historian to write the National Register nomination are also an eligible grant-related expense and should be included in the grant application.

Religious institutions may participate in the storm recovery and disaster planning grant program consistent with the National Historic Preservation Act Section 101(e)(4), which authorizes certain grants for religious properties listed in the National Register of Historic Places. Religious properties listed in the National Register are eligible to participate in this grant assistance program because the federal government has a strong interest in preserving all sites of historic significance to a broad class of beneficiaries defined without reference to religion; and because the criteria for funding is applied neutrally. These elements show that this grant program is aimed solely at preserving historic structures and does not constitute an endorsement of religion by the government.

Ineligible Properties:

- Federally-owned properties
- Properties determined not eligible for listing to the National Register of Historic Places
- Properties located in Hillsborough, Merrimack, Strafford, and Cheshire counties. These counties were not included in the federal disaster declaration for Superstorm Sandy.

Eligible Applicants:

- Private individuals,
- Cities/towns and counties,
- Not-for-profit corporations,
- For-profit organizations, and
- State agencies

Ineligible Applicants:

- Federal agencies

Eligible Activities and Costs:

All costs must directly relate to the accomplishment of the approved project. In general, the types of costs that are allowable include: accounting/auditing, advertising for consultants, communications such as telephone and postage, project consultant fees, materials and supplies consumed by the project, personnel costs (including wages and fringe benefits), printing and reproduction. Any other costs are unallowable, unless specifically approved in writing by the NHDHR.

The funding shall be used for the preservation, stabilization, rehabilitation, restoration and repair of historic properties damaged by Superstorm Sandy in federally declared disaster areas, per P.L. 113-2.

In Round 1, applicants may apply for pre-development costs (including resource inventory, eligibility findings) as well as construction projects. **Only Sandy-related damage is eligible for construction grant assistance.**

Pre-development Projects – for properties damaged by Superstorm Sandy

- Historic Structures Report
- Conditions Assessment including materials analysis
- Architectural/Engineering Plans and Specifications
- Landscape Study
- Survey and damage assessment
- Individual Inventory Forms for eligibility findings
- National Register of Historic Places nominations

Construction Projects – for properties damaged by Superstorm Sandy

- Preservation
- Restoration of specific property features or elements that were destroyed by Superstorm Sandy. Properties must still retain overall eligibility for the National Register of Historic Places.
- Rehabilitation
- Archaeological site stabilization
- Restoration, rehabilitation, preservation or stabilization of a documented historic landscape

Retroactive costs back to October 22, 2012 may be eligible for reimbursement provided all procurement/bidding and technical approvals meet the grant selection and reporting criteria, described elsewhere in this manual.

All construction projects plans and specifications must meet the *Secretary of the Interior's Standards for the Treatment of Historic Properties* and be reviewed and approved by the NHDHR prior to work commencing. In the case of National Historic Landmarks, the plans and specifications must also be reviewed and approved by NPS. The development of these documents is an eligible activity under this grant program.

All reports and assessments completed under this program must be completed by a consultant who meets the *Secretary of the Interior's Professional Qualifications Standards* as published in the Code of Federal Regulations, 36 CFR 61, and in accordance with NHDHR guidance for survey and identification of resources. The NHDHR maintains a list of qualified consultants, along with their areas of specialization, at: <http://www.nh.gov/nhdhr/consultants.html>

Ineligible Activities and Costs:

- Work funded by insurance and other recovery entities
- Acquisition of real property is not an eligible cost for grant assistance.
- Reconstruction is limited to portions of a historic property that still retain (prior to reconstruction) sufficient significance and integrity to remain listed in the National Register.
- Total reconstructions are not eligible for grant assistance. If specific features or elements of a building or landscape are missing and thus need to be recreated, this work is potentially eligible for funding (providing adequate historical documentation is available).
- Major reconstruction projects, such as recreating a building or landscape that has been completely destroyed, are not eligible for grant assistance because vanished structures, by definition, have lost their integrity and therefore are no longer eligible for the National Register of Historic Places, or for grant assistance.
- Costs incurred prior to the contract start date that have not received approvals
- Architectural salvage
- Archaeological salvage
- Additions
- Routine maintenance
- Equipment purchase – unless usefulness to project can be demonstrated
- Moving buildings
- Fines or penalties
- Fundraising efforts including costs associated with writing this grant application
- General operating expenses
- Hospitality expenses including food, beverages, entertainment
- New landscaping and site work
- Interest payments
- Interpretive expenses
- Nonconformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*
- Political contributions
- Re-granting
- Scholarships
- Software acquisition
- Travel

ABOUT THE *SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES*

All projects funded through this grant program must meet the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, as determined by the NHDHR and/or the NPS. There are four treatments, each with its own set of Standards. Choosing which treatment is appropriate for a particular property depends on the property's historical significance, physical condition, proposed use, and intended interpretation. Guidelines for selecting the appropriate treatment, and the Standards for each of the four treatments, are available from the NHDHR and online at <http://www.nps.gov/history/hps/tps/standguide/>. Please contact the NHDHR with any questions about the Standards and how they may apply to your project prior to planning your project or submitting an application.

The two treatments used most commonly are **PRESERVATION** and **REHABILITATION**. **PRESERVATION** focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time. **REHABILITATION** acknowledges the need to alter or add to a historic property to meet continuing or changing uses while retaining the property's historic character.

RESTORATION is undertaken to depict a property at a particular period of time in its history, while removing evidence of other periods. **RECONSTRUCTION** re-creates vanished or non-surviving portions based on historical evidence of a property for interpretive purposes.

All construction or repair work must be satisfactorily documented so that the NHDHR can ensure work was done according to the approved scope of work and to the *Secretary of the Interior's Standards*. Failure to provide sufficient documentation or comply with this requirement could jeopardize full reimbursement.

WORKING DRAWINGS/ARCHITECTURAL PLANS AND SPECIFICATIONS

These grants require plans and specifications that detail the exact scope of development work to be carried out, and must be accurately drawn to scale so that measurements can be verified at the project site. Plans and specifications must define the project so that all aspects of the work can be understood by objective reviewers familiar with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*. The plans and specifications must demonstrate the conformity with those Standards and specify the treatment proposed.

These types of documents are best completed by a Historical Architect who meets the *Secretary of the Interior's Professional Qualifications Standards* as published in the Code of Federal Regulations, 36 CFR Part 61.

Approval Requirements:

All construction plans and specifications must be approved by the NHDHR before going to bid or construction.

Any changes in the scope of work must be reviewed and approved by the NHDHR prior to the work commencing. **Failure to obtain initial approval or approval of changes in the scope of work may result in the cancellation of all or part of the grant award.**

COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT

Pursuant to Section 106 of the National Historic Preservation Act and a Programmatic Agreement for Disaster Recovery, NHDHR will act on behalf of NPS for this Emergency Supplemental HPF grant assistance and will initiate consultation and complete the consultation process stipulated in the regulations issued by the Advisory Council for Historic Preservation (ACHP) in 36 CFR 800 prior to the commencement of all grant-assisted work. NHDHR in partnership with the applicant will initiate and carry through the Section 106 review process and provide

documentation of its review to NPS. NHDHR will consider effects to historic properties in reviewing all applications. Using these grant funds on projects that cause adverse effects is strictly prohibited.

GROUND DISTURBANCE AT CONSTRUCTION PROJECTS / ARCHAEOLOGICAL SITE STABILIZATION

The NHDHR will review all grant applications to determine whether a proposal in a particular project location has the potential for impacting historic or prehistoric archaeological resources. In many cases, the existence of an archaeological site is not known, but it can be reasonably predicted to exist. If a project area is sensitive for archaeological resources, the NHDHR will work with the grant recipient to find a cost-efficient solution that both preserves the archaeological resource and allows the project to proceed. In some instances the DHR may determine that the applicant will need to hire a qualified consultant for an archaeological assessment. This cost can be included in the development project budget and is eligible for reimbursement along with other approved project costs. Many times an archaeological assessment reveals interesting information about the property that can be used for public education purposes.

If the grant proposal is for the stabilization of an archaeological site, the particular technique selected must be one that protects the site and its contents from further damage. Archaeological stabilization plans must be prepared and/or reviewed by professionals who have technical expertise in such work in consultation with the NHDHR.

A list of qualified archaeological consultants is available here:

http://www.nh.gov/nhdhr/consultants_archaeology.html

PROCUREMENT REQUIREMENTS

All procurement (purchase) procedures must follow the minimum federal requirements as outlined in 43 CFR 12 and applicable state and local procurement procedures and must be strictly followed.

All procurement transactions, regardless of whether competitive proposals or sealed bids are used and without regard to dollar value, shall be conducted in a manner that provides open and free competition. Procurement procedures shall not restrict or eliminate competition. Non-competitive practices between firms and organizational conflicts of interest are not allowable.

Goods and services must be procured in a manner so as to assure the prudent and economical use of grant moneys, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, extravagance, fraud and corruption. Grantees will be required to describe and document the procurement process and means used to obtain their proposed contractor(s) in a format prescribed by the NHDHR.

The purchase of supplies, equipment, and construction materials with grant assistance must comply, to the greatest extent practicable, with the requirements of 43 CFR 12, Subpart E (Buy American Requirements for Assistance Programs – <http://www.ecfr.gov/cgi-bin/text-idx?rgn=div6&node=43:1.1.1.1.12.5>). Any exceptions must be documented for the project files.

Prospective bidders must be aware of the involvement of federal funds and that consequent applicable federal and state requirements must be met. **The eligible grant expenses will be made on a reimbursement-only basis.**

Procurement must be made by one of the following methods:

- 1) Small purchase procedures
- 2) Competitive sealed bids (formal advertising)
- 3) Competitive negotiation

4) Noncompetitive proposal

In most instances, grantees will use competitive negotiation and small purchase procedures.

1) **Small Purchase Procedures** are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies or other property, costing in the aggregate not more than \$100,000. This method of procurement cannot be used for any procurement costing more than \$100,000. **If the procurement costs under \$100,000, prices or rate quotations should be obtained from at least three qualified sources and the lowest priced source should be chosen.**

2) In **Competitive Sealed Bids** (formal advertising), sealed bids are publicly solicited, and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price. This method of procurement is used for development projects.

- a. In order for formal advertising to be feasible, appropriate conditions must be present, including, as a minimum, the following:
 1. A complete, adequate and realistic specification or purchase description is available.
 2. Two or more responsible suppliers are willing and able to compete effectively for the grantee's business.
 3. The procurement lends itself a firm-fixed price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.
- b. When formal advertising is used for a procurement under a grant, the following requirements shall apply:
 1. A sufficient time prior to the date set for opening of bids (20-30 calendar days), bids shall be solicited from an adequate number of known suppliers. In addition, invitations must be publicly advertised.
 2. The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.
 3. All bids shall be opened publicly at the time and place stated in the invitation for bids.
 4. A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specific in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest.
 5. Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program.

3) In **Competitive Negotiation**, proposals are requested from a number of sources and the Request for Proposal is publicized, negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising. If competitive negotiation is used for a procurement under a grant, the following requirements shall apply:

- a. Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposal shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.

- b. The Request for Proposal shall identify all significant evaluation factors, including price or cost where required and their relative importance.
- c. Award may be made to the responsible offer or whose proposal will be most advantageous to the procuring party, price and other factors -- such as the capabilities, skill and technical knowledge required to complete the project -- considered. The most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. Unsuccessful offerors should be notified promptly.

The NHDHR can provide guidance to the grantee in preparing the Request for Proposal.

- 3) **Noncompetitive Proposals** is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. It is rarely approved for this grant program. Noncompetitive proposals may be used when the award of a contract is infeasible under small purchase, competitive bidding (formal advertising) or competitive negotiation procedures. A contractor's past performance or the recitation of an administratively imposed deadline is insufficient reason to justify noncompetitive procurement. Noncompetitive proposals must be approved in advance by the DHR, which must request approval from the National Park Service. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:
 - a. The item is only available from a single source.
 - b. After solicitation of a number of sources, competition is determined inadequate.

Contract Pricing:

The cost-plus-a-percentage-of-cost and percentage-of-construction-cost method of contracting or purchasing shall **not** be used under any circumstances including costs connected with any contract modifications. The types of contracts which are allowable include cost reimbursement contracts, firm-fixed-price contracts, fixed-price incentive contracts, or cost-plus-a-fixed-fee contracts.

Selection Procedures:

Solicitation of offers, whether by competitive sealed bids or competitive negotiation, shall:

- 1. Incorporate a clear and accurate description of the technical requirements for the materials, product or service to be procured. Such description shall not, in competitive procurement, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

- 2. All contracts in excess of \$10,000 shall contain suitable provisions for termination by the sub-grantee, including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

3. All contracts awarded in excess of \$10,000 shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11374, and as supplemented in Department of Labor regulations (41 CFR Part 60).
4. Notice of awarding agency requirements and regulations pertaining to reporting.
5. Notice of National Park Service requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract, and of NPS requirements and regulations pertaining to copyrights and rights in data.
6. Access by the DHR, the subgrantee, the National Park Service, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
7. Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed. If an audit, litigation, or other action involving the records is started before the end of the 3-year period, the records must be retained until all issues arising out of the action are resolved or until the end of the 3-year period, whichever is later.
8. Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-165).

The National Historic Preservation Act does not require compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7). However, this does not exempt projects where other federal funds are involved, and it is the grantee's responsibility to comply with the terms of the Davis-Bacon Act in those cases.

Procurement Documentation:

After any project contract is awarded, the following information must be sent to the NHDHR to satisfy Federal audit procedures:

1. A copy of the Request for Proposal or solicitation for bids, whichever is appropriate (the NHDHR must review and approve all RFPs in advance of their publication),
2. A description of the methods of publicizing the solicitations, including dates and places of publication and posting, and the list of consultants/suppliers to whom the RFP was directly sent.
3. Copies of the responses received, or a summary of the responses.
4. Method and justification of contractor selection.
5. Justification of the use of negotiation (if used),
6. Copy of the signed and dated contract(s).

MATCHING SHARE

There is no match required for these grant funds; however, it is encouraged and as part of the reporting requirements for the grant it must be tracked.

Matching share refers to the applicant's contribution toward the total cost of the project. Cash contributions refer to the actual funds committed to the project by the applicant. These matching funds can be state or local funds, grants or fund-raising proceeds from private organizations, foundations, or individuals. **Federal funds cannot be used as matching share with the exception of Community Development Block Grant (CDBG) money.** If you are unsure if your intended match is acceptable, please contact the NHDHR.

Donated services and equipment is allowable matching share when they directly benefit the project's objectives and are specifically identifiable. In other words, they are allowable only if the applicant would otherwise have to purchase them to accomplish the project. Donated services and equipment must be identifiable in project records as not donated by the federal government, not purchased with federal funds, and not included as donations comprising all or part of the share under any other federally-assisted project.

All personnel expenses must be supported by time records that are signed by both the employee and the employee's supervisor. Such records must show the actual hours worked – by date – and the specific duties performed. Donated equipment and office space are often too difficult to document adequately to use as matching share. Equipment or office space donated to the project must not exceed the fair market rental value. Grant recipients must submit documentation of their basis for determining valuation of donated equipment and space, including proof of fair market value, with the grant application. Grant recipients must also maintain records to support their reimbursement claims as to the actual use of donated equipment.

Volunteers can contribute to the success of a project if they are organized and supervised. Just as with donated services, volunteer services are allowable as matching share if the grantee would otherwise have to purchase the services to accomplish the project. The hourly rates must be consistent with those paid for similar work in the local labor market, and consultant rates may not exceed \$82.49 per hour. In most cases, volunteers performing work for which they are not trained or experienced must use the minimum wage rate. Volunteer hours must be documented like donated services; please check with the NHDHR for a sample form to document volunteer hours. Volunteer services usually are not part of pre-development or construction projects. Please consult first with the NHDHR if planning to use volunteer services as match.

REQUIREMENTS FOR EXECUTING TERM PRESERVATION EASEMENT

Construction grants funded with storm recovery funds are required to provide the NHDHR with a term preservation easement on the property. A preservation easement ensures the property's protection from unsympathetic changes, and in the event the property is sold, an easement recorded with the deed passes these requirements along to the new owner. Under this easement, the property owner agrees to:

- Keep and maintain the property in reasonably good order, condition and repair in accordance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, the *Secretary of the Interior's Standards and Guidelines for Archaeological Documentation* or other applicable *Secretary of the Interior's Standards*;
- Receive prior written consent from NHDHR before altering or changing the use of the property or performing any changes other than routine maintenance;
- Maintain insurance on the property for the duration of the preservation easement; and
- Not to sell, lease or otherwise convey the property, in whole or in part, without written approval of the NHDHR.

The duration of the preservation easement is determined by the amount of the grant funds received to complete the project in accordance with the following schedule:

- Up to \$50,000 = 5 year easement
- \$50,001 up to \$99,999 = 10 year easement
- \$100,000 and above = 20 year easement

See Appendix A of this manual for a sample term preservation easement.

INSURANCE

The grant recipient will be required to insure the grant assisted property against loss or damage by fire, flood, or other hazards, casualties, and contingencies. The insurance coverage must be in an amount not less than the amount of the grant plus the amount of any outstanding mortgages. Similarly, general liability insurance and workers compensation insurance will be required for all construction efforts with the NHDHR listed as a certificate holder.

SECTION TWO: APPLICANT INFORMATION AND INSTRUCTIONS

GRANT SELECTION, SCORING CRITERIA, and ADMINISTRATION

The Storm Recovery and Disaster Planning Grant Program is a competitive grant program, and each application will be scored according to a pre-determined set of criteria. Each application will be reviewed for eligibility and, if determined eligible, will be rated according to these grant selection criteria:

- Completeness and accuracy of the grant application.
- Applicant's ability to show the projects adherence to the applicable *Secretary of the Interior's Standards for the Treatment of Historic Properties*.
- The ability of the applicant to complete the project successfully and promptly within the grant period; project planning, administrative structures and budget demonstrates fiscal prudence and readiness to proceed.
- Ability for the project to address/correct the storm-related damage and achieve a significant preservation objective.
- Historic significance of the property or properties

Grant Award Notification:

Once the applications have been received they will be evaluated by a committee comprised of NHDHR staff, representatives from other divisions within the Department of Cultural Resources and professionals in the field of historic preservation and/or archaeology. Those projects with the highest scores will be selected for funding. NHDHR reserves the right to fund all or a portion of the proposed project. Grants exceeding \$25,000 or involving National Historic Landmarks regardless of the grant amount must also be submitted to the National Park Service for its approval. All grants/contracts are subject to review and approval by the New Hampshire Attorney General's Office and all grants exceeding \$25,000 are also subject to review and approval the Governor and Executive Council. Work must not commence until all approvals have been received.

Grant Administration:

The NHDHR acknowledges that the federal reporting requirements passed on to grant recipients may seem demanding. The NHDHR has streamlined these reporting requirements to the greatest degree possible for the Storm Recovery and Disaster Planning Grant Program. Nonetheless, they are necessary for receipt of funds and the New Hampshire's continued eligibility for Historic Preservation Fund appropriations.

Therefore, the qualifications and abilities of the applicant to meet federal and state fiscal and program management requirements will be considered in grant selection. While it is not necessary for the grant recipient to have experience in administering federal grants, she or he should have demonstrated administrative capabilities and be prepared to devote a reasonable amount of time for the project management, through a project's completion and acceptance of final reporting and reimbursement by the NHDHR. The project manager must be available during regular business hours. Demonstrated inability to manage a previous grant from the NHDHR or unresolved audit questions may be justification for rejecting the application.

Once a grant is awarded, applicants will enter into a contract with the NHDHR and the State of New Hampshire. The contract will include:

- NHDHR Grant Contract,
- Budget,
- Scope of work,
- Certificate of Insurance,
- State of New Hampshire Alternate W-9,
- State of New Hampshire Certificate of Authority for Municipalities (municipalities only),
- Certificate of Good Standing (non-profits only)

- Interim and Final Reports
- Any other contract materials required by the National Parks Service or the State of New Hampshire

Grant Project Timeline:

The project start date is the date on the Grant Agreement. Construction projects must be executed within 24 months of the project start date. Failure to comply with this requirement may result in the cancellation of the grant award.

Interim and Final Project Reports:

Progress reports with invoice documentation, if expended and photographic records of all grant funded work will be submitted to the NHDHR on a quarterly basis as outlined in the Grant Agreement executed between the grantee and the NHDHR.

A final report, which may also include a project audit, will be required within 90 days of the end date of the grant agreement. If required, the project audit must be prepared by an independent auditing firm. Costs associated with the preparation of the final report and audits are eligible for reimbursement.

The grantee must maintain all records pertinent to the funds awarded in accordance with 43 CFR 12.

Payment Procedures/Requests for Reimbursement:

These grants are reimbursement grants. Successful applicants must be prepared to fund the cost of the project, and then submit for reimbursement. Documentation of expenditures is required. Acceptable proof of expenditures may include copies of contracts, invoices, receipts and cancelled checks. NHDHR will issue a payment to the grantee when requested by the grantee if the following conditions are met:

- NHDHR approves the work elements and associated expenditure documentation.
- All interim reporting requirements are met.

The final grant payment, which shall not be less than twenty-five (25) percent of the compensation due to the grantee will be issued upon the following:

- A final site visit by NHDHR staff has been conducted;
- A term preservation easement has been executed and recorded at the county registry of deeds; and
- The final reporting requirements have been met.

Once all final reports and inspections are complete NHDHR will authorize a final grant payment.

Grant Cancellations:

NHDHR has the right to withhold, reduce or cancel grants if a grantee. The NHDHR will promptly notify the grantee in writing of the termination and the reasons for the termination, together with the effective date if the grantee:

- Fails to comply with the terms of the grant agreement
- Does not start a project within 90 days of the grant agreement execution
- Demonstrates inadequate financial management or oversight
- Does not properly credit the NHDHR and the NPS support
- Undertakes work without prior approval of the NHDHR
- Experiences significant delays in the grant project
- The project does not meet the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, as constructed

The grant may also be terminated for the following reasons:

- The NHDHR may terminate grant projects in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further

expenditure of funds. The two parties will agree upon the termination conditions, including the effective dates, and in the case of partial termination, the portion to be terminated.

- The grantee may unilaterally cancel the grant at any time prior to the any portion of the grant payment, although the NHDHR must be notified in writing. After initiation, the project may be terminated, modified, or amended by the grantee only by mutual agreement of the grantee and the NHDHR. Requests for termination prior to completion must fully explain the reasons for the action.

Other Requirements:

- Any alterations to historic buildings must comply with the provisions of the Americans with Disabilities Act. Historic buildings receive special consideration under ADA, and the NHDHR can assist grantees with this provision.
- Projects must meet the requirements regarding post-disaster recovery, specifically the FEMA guidelines regarding rebuilding within designated floodplains.
- Grant recipients must follow all applicable federal, state and local statutes, laws, rules and regulations, including any local historic district requirements.
- Grantee must not use grant funds for lobbying for other political activities.
- Should the grantee use grant funds for the purchase of project-related equipment purchases over \$5,000, the grantee must submit a request to the NHDHR that will require National Park Service review and approval. Grantees must maintain a property inventory record and comply with the property management requirements of OMB Circular A-102 (as codified in 43 CFR 12.71-73) and the HPF Grants Manual, Chapter 19, for all equipment purchased with the HPF grant funds, as directed through the NHDHR.

PROJECT PUBLICITY

Please note that no publicity, in any form, is allowed prior to receipt of all grant/contract approvals.

A project sign is required at the project site crediting the National Park Service, Department of the Interior and the NHDHR for the grant. The sign must be easily read from the public right-of-way and must be in place throughout the project term stipulated in the Grant Agreement. The NHDHR will provide the sign to the grantee.

Press releases about the project must acknowledge the grant assistance provided by the Historic Preservation Fund of the National Park Service and the NHDHR, and copies of the press releases must be provided to the NHDHR. The grantee must transmit notice of any public ceremonies planned to publicize the project or its results in a timely enough manner so that the NHDHR, NPS, congressional or other federal officials can attend if desired.

The grantee must include acknowledgement of grant support from the Historic Preservation Fund Storm Recovery and Disaster Planning Grants for Historic Properties grant program of the National Park Service, and a nondiscrimination statement in all publications and videos assisted with grant monies and/or concerning NPS grant-supported activities. At least three (3) copies of each publication and video concerning grant-assisted activities, or published with grant assistance, must be furnished to the NHDHR within 30 calendar days of publication. All publications, including video and audio tapes, must contain the following disclaimer and acknowledgement of support:

This material is based upon work assisted by a grant from the Department of the Interior, National Park Service. Any opinions, findings, and conclusions or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the Department of the Interior.

All consultants and contractors must be informed of this requirement. The NPS and the NHDHR shall have a royalty-free right to republish any published material generated by this grant.

APPLICATION INSTRUCTIONS

Application Information:

Applications are available for download on the NHDHR website at <http://www.nh.gov/nhdhr/>

Completed applications must be received at the NHDHR no later than Wednesday, December 10, 2014 by 4:30 p.m.

Application materials should be submitted to:

New Hampshire Division of Historical Resources
Attn: Amy Dixon, Grants Coordinator
19 Pillsbury Street, 2nd Floor
Concord, NH 03301

Contact Information:

For questions about this grant and to ask whether a property is eligible for funding please contact:

New Hampshire Division of Historical Resources
19 Pillsbury Street, 2nd Floor
Concord, NH 03301
603-271-3558
Amy.Dixon@dcr.nh.gov

Application Instructions:

One (1) complete application saved to a CD or a USB flash drive, including all photographs and attachments and five (5) complete printed copies of the application must be received by mail or hand delivered to the NHDHR no later than Wednesday, December 10, 2014 by 4:30 p.m.

Applications must be signed by all parties who have a fee simple interest in the historic property or by an authorized representative, if the owner is an agency or organization.

Application materials will not be returned.

All applications must be typed or computer generated. Handwritten applications will not be accepted. Do not bind your application with anything other than a binder clip or paper clips. Three ring binders or other methods of binding applications materials are not acceptable.

Appendix A

Sample Term Preservation Easement

TERM HISTORIC PRESERVATION EASEMENT

THE [insert owner name/organization], a New Hampshire [insert municipality, county, non-profit, etc.] having its principal place of business and mailing address at [insert address, physical and mailing if different, town, county, state, zip code], “Grantor,” for consideration paid, grants to the **STATE OF NEW HAMPSHIRE, DEPARTMENT OF CULTURAL RESOURCES**, acting through the **DIVISION OF HISTORICAL RESOURCES**, having its place of business and mailing address at 19 Pillsbury Street, Concord, Merrimack County, New Hampshire 03301-3570, “Grantee,” with **QUITCLAIM COVENANTS**, in accordance with and pursuant to the provisions of New Hampshire RSA 477:45-47 and RSA 227-M, a **TERM HISTORIC PRESERVATION EASEMENT** in the real property and structure situated thereon, known as the [insert property name and physical address, town, county, state], and more particularly described on Schedule A, attached and made a part hereof, the “Property,” upon the terms and conditions set forth herein.

1. BACKGROUND AND NATURE OF EASEMENT

1.1 Grantor and Grantee desire to guarantee the preservation of the unique historical character and architectural qualities of the Property and to impose “preservation restrictions” on the Property in accordance with RSA 477:46.

1.2 The [insert property name] was listed in the National Register of Historic Places on [insert date of listing], as required under Section 170(h)(4)(B) of the Internal Revenue Code, the “Code.”

1.3 The preservation values of the Property are documented in the National Register nomination, the grant application materials, interim and final reports and photographs, which the Grantor and Grantee agree provide an accurate representation of the Property as of the date of this Easement. These materials and a photographic record, shall be maintained for the life of this easement in the Grantee’s easement file for the Property.

1.4 This Easement is given in consideration of the sum of \$_____ received by the Grantor from the Grantee under the Disaster Relief Appropriations Act of 2013, as administered by the National Park Service of the United States Department of the Interior and is granted for a period of [insert term length written (numerically in parens)] years pursuant to and in accordance with Section 170(h) of the Code, and NH RSA 477:45, II.

1.5 This Easement specifically grants the Grantee all rights necessary:

1.5.1 To ensure that the architectural, historical, and cultural features of the Property will be retained and maintained in their current or better condition for preservation purposes, and

1.5.2 To prevent any use or change of the Property that will significantly impair or interfere with the preservation value of the Property.

2. COVENANTS OF GRANTOR

2.1 Affirmative Covenants. Grantor agrees to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)), the Americans with Disabilities Act (42 U.S.C. 12204), and with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). These laws prohibit discrimination based on race, religion, national origin, or disability. In implementing public access, Grantor shall make reasonable accommodation to qualified disabled persons in consultation with the Grantee.

2.1.1 Grantor covenants and agrees at all times during the term of this Easement to maintain the Property in the same or better structural condition and state of repair as that existing on the date of this Easement. The obligation to maintain shall require replacement, rebuilding, repair, and/or reconstruction by Grantor whenever necessary, subject to the casualty provisions of Section 4, to preserve the Property in substantially the same structural condition and state of repair as that existing as of the date of this Easement.

2.1.2 Grantor covenants and agrees that all work under this paragraph shall be undertaken in accordance with the United States Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, as they may be amended from time to time, the "Secretary's Standards" (36 CFR 68).

2.1.3 Grantor agrees to submit to Grantee, an annual stewardship report for the [insert property name] detailing all physical work, if any, undertaken on the Property on both the exterior and interior of the Building over the course of the previous year, as well as any stewardship development activities and any changes to the stewardship plan for the Property.

2.1.4 Grantor shall make the public-access portions of the [insert property name] reasonably accessible to the public during regular operating hours, and a minimum of twelve (12) scheduled days a year. Nothing in this agreement will prohibit a reasonable non-discriminatory admission fee, comparable to fees charged at similar facilities in the area.

2.1.5 At other times deemed reasonable by Grantor, the Grantor shall admit persons affiliated with education organizations, professional architectural associations, and historical societies to study the [insert property name]. Grantee may make photographs, drawings or other representations documenting the significant historical, cultural, and architectural character and features of the Property, and may distribute them to magazines, newsletters, or other publicly

available publications, or use them to fulfill its charitable and educational purposes; provided Grantee does not use such materials for sale or profit.

2.2 Negative Covenants

Grantor covenants and agrees that the following acts or uses are expressly forbidden on, over, or under the Property, except as otherwise permitted in this paragraph:

2.2.1 The Building on the Property shall not be demolished, removed, or razed except as provided in Section 4;

2.2.2 No action shall be undertaken that would adversely affect the structural soundness of the Building;

2.2.3 Nothing shall be erected or allowed to grow on the Property that would impair the visibility of the Property from street level;

2.2.4 No dumping of ashes, trash, rubbish, or any other unsightly or offensive materials is permitted on the Property;

2.2.5 No subdivision of the Property shall be permitted, nor shall the Property be conveyed except as a unit;

2.2.6 No above-ground utility transmission lines may be created on the Property, except those reasonably necessary for the existing Building, and those utility easements already on record, if any;

2.2.7 No other buildings or structures, including satellite dishes, shall be erected or placed on the Property, except such temporary structures required for the maintenance or rehabilitation of the Property;

2.2.8 No resource asset acquired under the Disaster Relief Appropriations Act of 2013 grant to Grantor shall be used for purposes not consistent with the purposes of NH RSA 227-M, as prohibited by NH RSA 227-M:14;

2.2.9 No resource asset may be sold, transferred, conveyed, or released from the public trust, as prohibited by NH RSA 227-M:13.

2.3 Conditional Rights

2.3.1 Grantor covenants and agrees that it shall not undertake any of the following actions during the term of this Easement without the prior express written approval of the Grantee, which approval may be withheld or conditioned in the sole discretion of the Grantee:

2.3.1.1 Grantor will not increase or decrease the height of, make additions to, change the exterior construction materials or finishes of, or move, improve, alter, reconstruct, or change the facade, including the fenestration, and roof, of the Building.

2.3.1.2 Grantor will not erect any new external signs or external advertisements not existing as of the date of this Easement, except (i) signs that may be required under the terms of grants that have been made for the preservation of the property, (ii) a sign stating solely the address of the Property, (iii) a temporary sign to advertise a special event or the sale or rental of the Property, and (iv) signs identifying entities that occupy the building. The design and content of all signs placed in conformity with this clause shall be approved in writing by the Grantee.

2.3.1.3 Grantor will not make any permanent substantial topographical changes to the Property.

2.3.1.4 Grantor agrees that no ground disturbing activity shall be undertaken or permitted to be undertaken on the Property which would affect historically significant archaeological resources without prior written permission of the Grantee affirming that such work will meet The Secretary of the Interior's Standards for Archeology and Historic Preservation.

2.3.1.5 Grantor will not change the existing use of the Property unless the Grantee determines such proposed uses do not impair the preservation values of the Property and do not conflict with the purposes of this Easement.

2.3.2 Grantor's written requests for approval by the Grantee shall include the following:

2.3.2.1 Information, including plans, specifications, and designs, where appropriate, identifying the proposed activity with reasonable specificity;

2.3.2.2 A timetable for the proposed activity sufficient to permit Grantee to monitor such activity.

2.3.3 Grantee shall act upon such written requests within sixty (60) days of receipt of the request. If such request is not denied in writing within such sixty (60) days, the request shall be considered approved and permission shall be deemed granted.

2.3.4 In the event of an emergency, Grantor may take such reasonable and limited actions Grantor deems necessary to protect the preservation values of the Property. However, as soon as reasonably practical thereafter, Grantor shall submit to Grantee information concerning the nature of the emergency and the actions taken by Grantor.

2.3.5 In exercising its authority under this Easement to review any construction, alteration, repair, or maintenance, or to review casualty damage, or to reconstruct or approve reconstruction of the Building following casualty damage, the Grantee shall apply the Secretary's Standards.

2.3.6 Grantee reserves the right to consult with governmental agencies, nonprofit preservation organizations, and/or other advisors deemed reasonably appropriate by the Grantee, concerning the appropriateness of any activity proposed under this paragraph.

2.3.7 Grantor shall be responsible for and shall pay reasonable costs incurred by Grantee to review requests under this paragraph, which costs may include reasonable architectural fees and Grantee's reasonable administrative expenses in processing Grantor's request.

3. RIGHTS RESERVED BY GRANTOR

3.1 Subject to the overriding obligation imposed by this Easement to preserve the preservation values of the Property, the Grantor retains and reserves the following rights that do not require further approval by the Grantee:

3.1.1 The right to engage in all those acts and uses that:

3.1.1.1 Are permitted by governmental statute or regulation;

3.1.1.2 Do not substantially impair preservation values of the Property; and

3.1.1.3 Are not inconsistent with the purpose of the Easement.

3.1.2 In accordance with the affirmative covenant in 2.1.1 and 2.1.2, the right to maintain and repair the Building on the Property in accordance with the Secretary's Standards is subject to the additional obligation that the Grantor must use for such maintenance and repair of the exterior of the Building on the Property in-kind materials and colors, applied with workmanship comparable to that used in the construction or application of the materials being repaired or maintained for the purpose of retaining in good condition the appearance and construction of the Building on the Property. This right to maintain and repair the exterior of the Building as used in this subparagraph shall not include the right to make changes in appearance, materials, colors, and workmanship from that

existing prior to the maintenance and repair without the prior approval of the Grantee in accordance with the provisions of 2.3.1.

3.1.3 The right to continue all manner of existing uses and enjoyment of the Property, including, but not limited to public meetings consistent with the purpose of this easement.

3.1.4 The right to continue to conduct at or on the Property educational and nonprofit activities that are not inconsistent with the preservation values of the Property.

4. INSURANCE; CASUALTY

4.1 Grantor shall keep the Property insured against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death, and property damage. Such insurance shall include Grantee's interest and shall name Grantee as an additional insured. Within ten (10) business days of receipt of Grantee's written request, Grantor shall deliver to Grantee Certificates of such insurance coverage.

4.2 In the event the Building on the Property or any part thereof shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement, or other casualty, Grantor shall notify Grantee in writing within fourteen (14) days of the damage or destruction and such notification shall include information concerning the nature of the emergency and the actions taken by Grantor. As set forth in 2.3, above, Grantor shall undertake no repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Building on the Property and to protect public safety, without Grantee's prior written approval. Within thirty (30) days of the date of damage or destruction, if required by Grantee, Grantor at its expense shall submit to the Grantee a written report prepared by a qualified restoration architect and/or an engineer acceptable to Grantor and Grantee, which report shall include an assessment of the nature and extent of the damage, a determination of the feasibility of the restoration of the Building and/or reconstruction of damage or destroyed portions of the buildings, and a report of such restoration/reconstruction work necessary to return the Building and the Property to the condition existing as of the date of this Easement.

4.3 After reviewing the report of the restoration architect or engineer and assessing availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims to those proceeds, Grantor and Grantee will determine either that the purpose of the Easement will be served by such restoration/reconstruction, or that such restoration/reconstruction of the Property is impractical or impossible, or agree that the purpose of the Easement would not be served by such restoration/reconstruction. If the Grantor and Grantee agree that restoration/reconstruction is appropriate, they shall establish a schedule under which Grantor shall complete the restoration/reconstruction of the Building in accordance with plans and specifications approved by the parties up to at least the total of the casualty insurance proceeds available to Grantor. In the event the

parties agree that such restorations/reconstruction is not practical or possible, Grantor may, with the prior written consent of the Grantee, alter, demolish, remove, or raze the building and/or construct new improvements on the Property. Under those circumstances, Grantor and Grantee may agree to extinguish this Easement in whole or in part in accordance with the laws of the State of New Hampshire and Section 10, hereof.

4.4 In the event Grantor and Grantee are unable to come to an agreement as to whether or not to restore or reconstruct the Building after casualty, the matter may be referred by either party to binding arbitration and settled in accordance with the New Hampshire Arbitration Statute then in effect. However, either party may request that any arbitration ruling set forth detailed findings of fact and any rulings of law made by the Arbitrator.

4.5 As indicated above, nothing contained in this section shall jeopardize the prior claim, if any, of any mortgagee/lender to the proceeds of any insurance policy.

5. INDEMNIFICATION

5.1 Grantor agrees to protect, indemnify, hold harmless, and defend, at its own cost and expense, the Grantee, its agents, trustees, directors, officers, and employees, or independent contractors, from and against any and all claims, liabilities, expenses, costs, damages, losses, and expenditures, including reasonable attorneys' fees and disbursements hereafter incurred, arising out of or in connection with injury to or death of any person in or on the Property, physical damage to the Property, or the presence or release in, on, or about the Property at any time of any substance now or hereafter defined, listed, or otherwise classified pursuant to any law, ordinance, or regulation as a hazardous, toxic, polluting, or contaminating substance, or against any other injury or other damage occurring on or about the Property unless such injury or damage is caused by Grantee or an agent, trustee, director, officer, employee, or independent contractor of Grantee. In the event Grantor is required to indemnify Grantee in accordance with this section, the amount of such indemnity, until discharged, shall constitute a lien on the Property and shall have the same priority as a mechanic's lien. Nothing contained in this section shall jeopardize the priority of any lien on the Property given by Grantor to secure a Promissory Note or Promissory Notes.

6. TAXES

6.1 Grantor shall pay immediately, when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer service charges, and other charges that may become a lien on the Property unless the Grantor timely objects to the amount or validity of the assessment or charge and diligently prosecutes an appeal thereof, in which case the obligation to pay such charges may be suspended for the period permitted by law for prosecuting such appeal and any applicable grace period following completion of such action, if any, if such suspension of payment is lawfully permitted. Grantee is hereby authorized, but in no event is Grantee required or expected, to make or advance, upon three (3) days prior written notice to Grantor, any payment relating to

taxes, assessments, water rates, sewer rentals and other governmental or municipality charge, fine, imposition, or lien asserted against the Property. Grantee may make such payment according to any bill, statement, or estimate procured from the appropriate public office without inquiry of the accuracy of such bill, statement, or assessment, or without examination of the validity of such tax, assessment, sale, or forfeiture. Such payment, if made by Grantee, shall constitute a lien on the Property with the same priority as a mechanic's lien, except that such lien shall not jeopardize the priority of any recorded lien given by Grantor to secure any Promissory Note or Notes.

7. NOTICE; INSPECTION, REMEDIES

7.1 Notices from Grantor or Grantee to each other shall be in writing and shall be delivered to the Grantor at [insert mailing address, town, state, zip code], and to the Grantee at 19 Pillsbury Street, Concord, NH 03301-3570. Such notices either shall be delivered in hand or shall be sent by overnight courier, postage prepaid, by facsimile transmission, or by registered or certified mail with return receipt requested. The party receiving notice shall have two weeks to respond to the notice before any action is undertaken by the sending party. Each party may change its address set forth herein by a notice to that effect to the other party.

7.2 Grantor shall deliver to Grantee copies of any notices of violations or liens relating to the Property received by the Grantor from any governmental authority within five (5) days from receipt by Grantor. Upon request of the Grantee, the Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with such notice or lien where compliance is required by law.

7.3 Grantor shall promptly notify Grantee in writing of any proposed sale of the Property and shall provide the opportunity to the Grantee to explain the terms of this Easement to any potential new owner prior to the closing on such sale.

7.4 Upon request of the Grantor the Grantee shall promptly furnish Grantor with certification that, to the best of Grantee's knowledge, Grantor is in compliance with the obligations of Grantor contained in this Easement or that otherwise certifies the status of this Easement to the extent of Grantee's knowledge thereof.

7.5 With appropriate and prior notice to Grantor, representatives of Grantee shall be permitted at all reasonable times to inspect the Property, including the interior of the building.

7.6 Grantee, following reasonable notice to the Grantor, may institute a suit to enjoin any violation of the terms of this Easement and may seek *ex parte*, temporary, preliminary, and/or permanent injunctive relief, which relief may also include prohibitory and/or mandatory injunctive relief, and may further require the restoration of the Property and the Building to the condition and appearance that existed prior to the violation complained of. Grantee shall also have available all legal and other equitable remedies to enforce Grantor's obligations under this Easement. In the event Grantor is found to have

violated any of its obligations under this Easement, Grantor shall reimburse Grantee for any costs or expenses incurred in connection with the enforcement of the terms of this Easement, including, but not necessarily limited to, all reasonable Court costs and attorneys, architectural, engineering, and expert witness fees. Grantee's exercise of one remedy hereunder shall not have the effect of waiving or limiting its right to any other remedy and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of that remedy or any other remedy or the use of such remedy at any other time. Grantee shall have a lien upon the Property for any costs or expenses incurred under this Section. Any such lien may be confirmed by a judgment and executed upon in the same manner as a mechanic's lien, except that no lien created pursuant to this Section shall jeopardize the priority of any recorded lien of a mortgage or deed of trust given in connection with a promissory note that is secured by the Property.

8. EFFECTIVE DATE; ASSIGNMENT

8.1 Grantee shall promptly record this instrument in the [insert county] County Registry of Deeds once it has been fully executed. The Grantor and the Grantee intend that the restrictions arising under this Easement shall take effect on the day and the year this instrument is recorded.

8.2 Without further action, this Easement will expire [insert term written and (numerically in parens)] years from the date of execution of this Easement.

8.3 The obligations imposed by this Easement shall be effective for the entire term of this Easement and shall be deemed to run as a binding servitude with and upon the Property. This Easement shall extend to and be binding upon Grantor and Grantee, their respective successors and interests and all persons or entities hereafter claiming under or through Grantor and Grantee, and the words Grantor and Grantee shall include such successors and interest. The restrictions, stipulations, and covenants contained in this Easement shall be inserted by Grantor, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor may divest itself of either the fee simple title to or any lesser estate in the Property or any part thereof, including by way of example and not by limitation, a lease of all or a portion of the Property. In the event of a bonafide transfer of the Property, the obligations set forth in this Easement shall bind the new owner of the Property and the prior owner shall have no further obligation pursuant to this Easement.

9. CONDEMNATION

9.1 If all or any part of the Property is taken by eminent domain, or otherwise acquired by a condemning authority by a purchase in lieu of a taking, Grantor and Grantee shall join in appropriate proceedings at the time of such taking or purchase in lieu of such taking to recover the full value of those interests in the Property that are subject to the taking together with all incidental and direct damages resulting from the taking.

10. EXTINGUISHMENT

10.1 Grantor and Grantee hereby recognize that circumstances may arise that may make impossible the continued ownership or use of the Property in a manner consistent with the purpose of this Easement and necessitate extinguishment of the Easement. Such circumstances may include, but are not necessarily limited to, partial or total destruction of the Building on the Property resulting from casualty or by eminent domain. No such extinguishment or termination of this Easement shall be effective until an instrument to that effect is recorded in the [insert county] County Registry of Deeds.

11. INTERPRETATION

The following provisions shall govern the effectiveness, interpretation, and duration of the Easement.

11.1 Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of Property shall not apply in the construction or interpretation of this Easement, and this instrument shall be interpreted broadly to effect its Purpose and the transfer of rights and the restrictions on use herein contained.

11.2 This instrument may be executed in two counterparts, one of which may be retained by Grantor and the other, after recording, to be retained by Grantee. In the event of any disparity between the counterparts produced, the recorded counterpart shall in all cases govern.

11.3 This instrument is made pursuant to RSA 477:46, RSA 227-M:5,VI, and RSA 227-M:8,III(b) and (c), but the invalidity of such laws or any part thereof shall not affect the validity and enforceability of this Easement according to its terms, it being the intent of the parties to agree and to bind themselves, their successors, and their assigns for the term of this easement to each provision of this instrument whether this instrument be enforceable by reason of any statute, common law, or private agreement in existence either now or hereafter. The invalidity or unenforceability of any provision of this instrument shall not affect the validity or enforceability of any other provision of this instrument or any ancillary or supplementary agreement relating to the subject matter thereof.

11.4 Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods, or use. In the event of any conflict between any such ordinance or regulation and the terms hereof, Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this Easement and such ordinance or regulation.

11.5 To the extent that Grantor owns or is entitled to development rights which may exist now or at some time hereafter by reason of the fact that under any applicable

zoning or similar ordinance the Property may be developed to a more intensive use (in terms of height, bulk, or other objective criteria related by such ordinances) than to which the Property is devoted as of the date hereof, such development rights shall not be exercisable on, above, or below the Property during the term of the Easement, nor shall they be transferred to any adjacent parcel and exercised in a manner that would interfere with the Purpose of the Easement.

11.6 To the extent that any action taken by Grantee pursuant to this Easement gives rise to a claim of breach of contract, Grantor and Grantee agree that the sole remedy on the part of Grantor shall be reimbursement of actual direct out-of-pocket expenses reasonably incurred by Grantor as a result of such breach and that Grantor shall not have any right to indirect, consequential or monetary damages in excess of such actual direct out-of-pocket expenses.

12. AMENDMENT

12.1 If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee may by mutual written agreement jointly amend this Easement, provided that no amendment shall be made that will adversely affect the qualification of this Easement or the status of Grantee under any applicable laws, including Sections 170(h) and 501(c)(3) of the Code and the laws of the State of New Hampshire. Any such amendment shall be consistent with the protection of preservation values of the Property and the purpose of this Easement; shall not affect its duration; shall not permit additional development on the Property other than the development permitted by this Easement on its effective date; shall not permit any private inurement to any person or entity; and shall not adversely impact the overall architectural and historical values protected by this Easement. Any such amendment shall be recorded in the [insert county] County Registry of Deeds. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

THIS EASEMENT and attached exhibits reflect the entire agreement of Grantor and Grantee in consideration of grants from the Disaster Relief Appropriations Act of 2013 to the Grantor. Any prior or simultaneous correspondence, understandings, agreements, and representations are null and void upon execution hereof, unless set out in this instrument.

TO HAVE AND TO HOLD, the said Term Historic Preservation Easement, unto the said Grantee and its successors and permitted assigns.

IN WITNESS THEREOF, Grantor and Grantee have set their hands under seal on the days and year set forth below.

WITNESS:

GRANTOR:

[insert property owner name]

By: _____

Name: _____
[insert title], Duly Authorized

By: _____

Name: _____
[insert title], Duly Authorized

STATE OF NEW HAMPSHIRE
COUNTY OF [INSERT COUNTY]

The foregoing instrument was acknowledged before me this ____ day of _____, 2015 by _____ and _____, the duly authorized [insert title of duly authorized] of the [insert property owner], a New Hampshire voluntary corporation, on behalf thereof.

Justice of the Peace/Notary Public
My Commission Expires: _____

ACCEPTANCE OF EASEMENT

GRANTEE:

**NEW HAMPSHIRE DIVISION OF
HISTORICAL RESOURCES**

By: _____

Name: _____
Its Director

By: _____

Name: _____
Its Deputy Director

STATE OF NEW HAMPSHIRE

COUNTY OF MERRIMACK

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by _____ and _____, the duly authorized director and deputy director, respectively, of the New Hampshire Division of Historical Resources, on behalf thereof.

Justice of the Peace/Notary Public
My Commission Expires: _____

Approved as to Form and Execution _____
Signature Date

Name Title
New Hampshire Department of Justice

DRAFT

SCHEDULE A

Property Description*

[Insert Property Name}
[Insert property address, town, state]

A certain lot or parcel of land with the buildings thereon, known as the [insert property name], situate at the intersection of [list street address or similar] in [insert town], County of [insert county] and State of New Hampshire, being more particularly bounded and described as follows:

“Bounded on the ..., located at [insert physical address] and described in the Town of [insert town] tax records as [insert map/lot number].”

*Most easily found in the deed of the property.